

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

AMERICAN COUNCIL OF THE)
BLIND OF INDIANA, et. al,)
)
 Plaintiffs,)
)
)
 v.) No. 1:20-cv-3118-JMS-MJD
)
)
INDIANA ELECTION COMMISSION,)
et. al.,)
)
 Defendants.)

**DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT AND
DESIGNATION OF EXHIBITS**

Defendants, by counsel, and pursuant to Rule 56 of the Federal Rules of Procedure, move this Court to enter judgment in favor of Defendants because Indiana's absentee voting system for print-disabled voters does not violate federal law.

1. On December 7, 2020, Plaintiffs—three individual voters and two advocacy groups—filed suit against state election officials, alleging violations of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 [Filing No. 1].

2. Fourteen months into the litigation, and on the eve of the May 2022 primary election, Plaintiffs sought a preliminary injunction [Filing No. 81], which the Court denied in part, and granted in part [Filing No. 100; Filing No. 106]. The Court preliminarily enjoined state officials from enforcing the traveling-board

requirement for print-disabled voters voting in the primary election [Filing No. 100; Filing No. 106].

3. On May 18, 2022, Plaintiffs filed a motion for summary judgment and permanent injunction, and in the alternative, requested another preliminary injunction [Filing No. 127].

4. The Court should deny Plaintiffs' motion for summary judgment and instead grant summary judgment to Defendants for four reasons: First, Plaintiffs lack standing because the alleged discrimination is not traceable to Defendants' conduct. Second, Indiana's absentee voting system for print-disabled voters does not violate the ADA or the Rehabilitation Act because Indiana law specifically authorizes the travel board to take a disability-accessible voting machine to the home of a print-disabled voter so that such a voter may vote privately and independently. Third, the expansion of the UOCAVA system to print-disabled voters, through Senate Enrolled Act 398, will provide yet another accommodation for print-disabled voters to vote privately and independently from their own home. And fourth, Plaintiffs' desired accommodation—internet voting through an RAVBM tool—would fundamentally alter the nature of Indiana's elections system by forcing the State to purchase and implement an internet-voting scheme that has never been tested or used by Indiana's policymakers.

5. In support of Defendants' cross-motion for summary judgment and their response in opposition to Plaintiffs' motion for summary judgment, Defendants submit the following exhibits:

- a. Exhibit 1: Indiana Election Division Declaration, dated June 15, 2022
- b. Exhibit 2: Federal Government's Study on Risk Management for Electronic Ballot Delivery, Marking, and Return, May 2020

6. Defendants also rely and cite to other evidence already in the Court's record, including the following:

- a. Indiana Election Division Deposition, Filing No. 80-7
- b. Indiana Election Commission Deposition, Filing No. 126-32
- c. Indiana Secretary of State Deposition, Filing No. 80-8
- d. Indiana Election Administrator's Manual, Filing No. 91-1
- e. Civix Deposition, Filing No. 126-29
- f. Plaintiffs' Appendix of Exhibits in support of their motion for summary judgment, Filing No. 126
- g. Plaintiffs' affidavits in support of their motion for preliminary injunction, Filing Nos. 80-1, 80-3

7. Defendants submit a combined brief in support of its motion for summary judgment contemporaneously with this motion.

WHEREFORE, Defendants respectfully request the Court enter judgment in favor of Defendants.

Respectfully submitted,

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Date: June 15, 2022

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